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**U.S. DEPARTMENT OF EDUCATION
TITLE IV NEGOTIATED RULEMAKING TEAM
TEAM II: SCHOOL ISSUES**

**Meeting Summary
March 6 – 8, 2002
Washington, DC**

Welcome

The meeting commenced at approximately 1:30 p.m. on March 6, 2002, as scheduled, and adjourned on March 8, 2002, at approximately 3:30 p.m. Negotiators for all members of Team II and the facilitators were present.

Review and Adopt Draft Summary of January 16-18, 2002 Meeting

The draft meeting summary was adopted with revisions. The final meeting summary will be released to the public and distributed via the listserv and the Department of Education website.

Review Draft Regulatory Language

The agenda for the meeting was comprised of reviewing documents previously distributed by the Department and updates on other issues, which the Department viewed as non-regulatory items. For each issue, the federal negotiator explained each proposed regulation or Department action, which was then discussed by the negotiators. When possible, the negotiators reached tentative agreements (TA) on draft language for the issue.

Below is the status of each issue on the negotiating agenda resulting from this negotiating session. Where no agreement is indicated, the topic will be addressed at the April 24 – 26 negotiating session.

Employment Flexibility for Proprietary Schools under FWS	675.21(b)	TA
Electronic Process: Return Receipt Requirement (Fed Up #7)	668.165(a)(3)(ii)	TA
Treatment of Branch Campuses	600.8	TA
90/10 Rule (Fed Up #67)	600.5	
part I of proposal		TA
part II of proposal: ongoing questions about the use of 529 funds for non-institutional costs counting as part of the required 10% of non-Title IV Aid.		

12-Hour Rule (Fed Up #65)

668.2(b)(2)(ii)(B)

Some negotiators requested examples of how the proposed changes would be applied to non-standard terms and non-term courses. The Department and others will provide such examples to the negotiators.

Incentive compensation (Fed Up #64)

668.14

The Department will revise the draft language to reflect some of the issues discussed. There is still on-going disagreement among the negotiators on some elements related to this issue.

Change of Ownership (Fed Up #81)

668.13

One negotiator requested time to review program participation agreements before further discussions of this issue.

RETURN OF TITLE IV AID**Late disbursements (Fed Up #35 and 36)**668.22, 668.164(g)(3)(ii),
668.164(g)(3)(i), 668.164(g)(2)(ii)(D)

The Department distributed a revised draft based on comments provided by Team I. In addition, the facilitators passed on the comments offered by Team I during its negotiating session. The Department will further revise its draft based on the discussions of Team II.

Attendance (Fed Up #39)

668.22(j)(1)(B)

Conceptual agreement, pending review of additional language to be provided by the Department.

Leave of absence (Fed Up #41)

668.22(d)(4)

Further discussion required within the Department, whose goal is to provide regulatory language that allows for a temporary cessation of attendance (leave of absence) but not for withdrawals.

Timely refunds (1/7/02 Suggestion)

(no regulatory cite)

The Department distributed new regulatory language at the meeting. Further discussions of this issue are required.

Gear Up (Fed Up #82)

694.10

TA

EADA Reporting (Fed Up #75)

668.23, 668.41(g), 668.47

Conceptual agreement. The negotiators are researching possible dates by which schools will publicly disclose information related to their intercollegiate athletic programs.

Overpayment

668.35(c), 673.5(f), 690.79 TA

including agreement to include an illustrative example in the preamble.

ATB Testing Requirements (Fed Up #86)

668.32(e)(1) and (2) TA

For the following issues, the Department proposed non-regulatory responses. A tentative agreement may reflect the negotiators' agreement on an alternative to regulatory language, for Meeting Summary – March 6-8, 2002

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example, clarification in a handbook, or may indicate agreement that they have completed their discussions of the issue.

Home Schooled Students	668.32(e)(4)	TA
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School Eligibility 50% Rules	600.7	TA
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Electronic Process (Fed Up #5)	(no regulatory cite)	TA
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Return of Title IV Aid : 50% Grant Protection (Fed Up #42)	(no regulatory cite)	TA
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After a review, the Department concluded that the statute does not permit the expansion of this provision. The non-federal negotiators disagreed. The tentative agreement reflects a conclusion of the discussion of this issue.

Electronic Federal Work Study Process (Fed Up #8)	675.19(b)(2)(I)	TA
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Waivers for Community Service (Fed Up #88)	675.18(g)	TA
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Purchase/Rental of Computer in Need Analysis (Fed Up #89 and #99)	(no regulatory cite)	TA
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Overaward Tolerances (Fed Up #100)	673.5	TA
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Regaining of Student Eligibility (Fed Up #94)	(no regulatory cite)	
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Negotiators asked the Department to review its guidance related to this issue

Public Comment

Opportunities for public comment were provided at various times during the negotiating session. Janel Casera of the National Direct Student Loan Coalition provided comments on the 90/10 Rule. Christopher Klicka of the Home School Legal Defense Association provided comments on the issue related to home schooling. Mark F. Smith of the American Association of University Professors offered comments on the 12-Hour Rule.

Next Meeting

The Department will provide revised draft regulatory language at least seven days prior to the next meeting. For all issues resolved by regulatory language, the Department will provide the amendatory language of the draft NPRM as well as a redlined version to provide negotiators with the context for proposed changes.

The next meeting is scheduled for April 24-26, 2002, during which the Team will undertake a thorough review of each unresolved issue in an attempt to reach tentative agreements on each remaining item, and a final consensus on the complete package.

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